

## **MINUTES**

### **MONTANA SENATE 56th LEGISLATURE - REGULAR SESSION**

#### **COMMITTEE ON TAXATION**

**Call to Order:** By **CHAIRMAN GERRY DEVLIN**, on April 9, 1999 at 8:00 A.M., in Room 413/415 Capitol.

#### **ROLL CALL**

**Members Present:**

Sen. Gerry Devlin, Chairman (R)  
Sen. Bob DePratu, Vice Chairman (R)  
Sen. John C. Bohlinger (R)  
Sen. Dorothy Eck (D)  
Sen. E. P. "Pete" Ekegren (R)  
Sen. Jon Ellingson (D)  
Sen. Alvin Ellis Jr. (R)  
Sen. Bill Glaser (R)  
Sen. Barry "Spook" Stang (D)

**Members Excused:** None

**Members Absent:** None

**Staff Present:** Sandy Barnes, Committee Secretary  
Lee Heiman, Legislative Branch

**Please Note:** These are summary minutes. Testimony and discussion are paraphrased and condensed.

**Committee Business Summary:**

Hearing(s) & Date(s) Posted: HB 656, 3/29/99; HB 657,  
3/29/99; HB 658, 3/29/99; HB  
659, 3/29/99; HB 253, 3/29/99  
Executive Action: HB 656, HB 659, HB 657, HB  
651, HB 669, HB 638

#### **HEARING ON HB 656**

**Sponsor:** REPRESENTATIVE SYLVIA BOOKOUT-REINICKE, HD 71, ALBERTON

**Proponents:** Patricia Cook, Montana County Treasurers Association

**Cort Harrington, Montana County Treasurers  
Association**

**Opponents:** None

**Opening Statement by Sponsor:**

**REP. SYLVIA BOOKOUT-REINICKE, HD 71, Alberton,** said this is a bill to improve the tax deed process when there are liens put on property. She said there is nothing in the Code that specifies how this is done, so every county makes up their own way. This bill rectifies this problem.

**Proponents' Testimony:**

**Patricia Cook, Lake County Treasurer and Legislative Chair, Montana County Treasurers Association,** said the County Treasurers are supporting this legislation because presently there are no forms in statute, no guidelines for canceling tax sale assignments or for redemption of that assignment. This would give the Treasurer some sort of form to go by. It would also allow that county documents to be recorded in the Clerk and Recorder's Office at no charge to the County because it is a county document.

**Cort Harrington, Montana County Treasurers Association,** said the primary purpose of this bill is to allow the recording of cancellation of a tax assignment. He said presently if there is a cancellation or redemption of a tax deed, there is nothing that would reflect that through the Clerk and Recorder's Office. The purposes of this bill are 1) to require that these are filed with the Clerk and Recorder, 2) to provide a form to accomplish that, and 3) to provide that there is no filing fee for that because it is a county form.

**Opponents' Testimony:** None

**Questions from Committee Members and Responses:**

**CHAIRMAN DEVLIN** asked if there are places in law where forms have been established, and **Mr. Harrington** said there were.

**Closing by Sponsor:**

**REP. BOOKOUT-REINICKE** had no closing statement.

**EXECUTIVE ACTION ON HB 656**

**Motion/Vote:** SEN. STANG MOVED HB 656. Motion carried 9-0. SEN. STANG will carry on the floor.

**HEARING ON HB 657**

**Sponsor:** REPRESENTATIVE BOB DAVIES, HD 27, BOZEMAN

**Proponents:** Joe Shevlin, Montana Society of CPAs

**Opponents:** None

**Opening Statement by Sponsor:**

REP. BOB DAVIES, HD 27, Bozeman, said this bill was prepared at the request of the Montana Society of CPAs. He said under current law, individuals are tied to federal adjusted gross income, with certain additions and subtractions. If a taxpayer is a beneficiary of an estate or trust, the income from the trust is included in federal adjusted gross income. However, when an estate or trust is taxed at the Montana level, there are usually differences between federal taxable income for the estate and the Montana taxable income for the same estate or trust. In 1998, the Montana Department of Revenue issued a legal opinion that Montana beneficiary taxpayers would be taxed in Montana based on the federal distribution. This law would change and reconcile the differences and allow Montana taxpayers to adjust their federal adjusted gross income by the differences between the federal level and the state level.

**Proponents' Testimony:**

Joe Shevlin, Montana Society of CPAs, distributed two examples of the Form 1041, Example A, **EXHIBIT(tas77a01)**, and Example B, **EXHIBIT(tas77a02)**. As REP. DAVIES had said, there are differences between federal adjusted gross income and Montana adjusted gross income. There are certain things taxed in Montana that are not taxed on the federal level, and vice versa. Currently there is no way to adjust those on the individual tax return.

Referring to Example A, Mr. Shevlin said this is an example of the federal fiduciary income tax return, which is the trust or estate return. On page 1, line 18, it shows the income distribution deduction, and the taxable amount to beneficiaries at the federal level is \$12,250. Turning to page 3, he pointed out lines 1 and 2, which total the \$12,250. He said this is the amount that is taxed for income tax purposes at the federal

level. Page 4 is the Montana fiduciary income tax return for the same trust or estate, and line 32 reflects the amount that is taxable under Montana law, \$15,250. Page 6 is a copy of the front page of the Montana individual income tax return. He said because Montana piggybacks the federal rules, included on line 20 is the amount of income taxable under federal rules, \$12,250. This law allows the differences between the federal and the state item to be reconciled on the bottom part of the first page.

**Mr. Shevlin** said Example B is similar to Example A, except that it goes the other way. On page 1, line 18, it reflects \$5,350; page 4, line 32, shows an income distribution deduction for this particular trust or estate of \$3,500 less than the federal. This bill allows all the reconciling items to be adjusted on the Montana return.

**Opponents' Testimony: None**

**Questions from Committee Members and Responses:**

**SEN. ELLINGSON** asked what this bill would do with the examples he had explained. **Mr. Shevlin** said this bill allows those differences between the federal and the state to be deducted or added on the Montana return at the beneficiary level as reflected on page 6, line 23 on Example A, and on page 6, line 34 on Example B. **SEN. ELLINGSON** asked, then, if under current state law those adjustments could not be made, and **Mr. Shevlin** said that under current state law some of those adjustments can be made. This law expands that to be able to make all adjustments that arise between the federal and the state level.

**SEN. ELLIS** said his understanding is that the correct tax is being paid currently, and **Mr. Shevlin** said he did not think so. He said under current law, the taxpayer is not allowed to adjust the adjusted gross income by some of these amounts. Therefore, the taxpayer is not able to deduct the federal taxes that might have been at the trust or estate level.

**SEN. STANG** asked what the advantage was for the person who under current law would be paying more taxes with these changes. **Mr. Shevlin** said it is a concept of fairness. He said there should not be a difference between the taxpayer who is a beneficiary of a trust or an estate and the taxpayer who is not a beneficiary.

**CHAIRMAN DEVLIN** asked the Department of Revenue about the vagueness of the Fiscal Note. **Jeff Miller, Department of Revenue**, said in this instance the Department does not have the data captured in a fashion that would allow calculation of this.

**SEN. STANG** asked why the Department had not come forward with these changes, and **Mr. Miller** said the Department is aware of this issue as a result of some litigation, and this bill is a result of that litigation because it questions the whole concept of distributable net income as defined in the Montana statutes.

**SEN. STANG** asked if this legislation will make Montana consistent with the court ruling in that particular case, and **Mr. Miller** said it would.

**SEN. ELLIS** asked if there were very many trust filings in Montana, and **Mr. Miller** said he did not know, but he could provide that information. **SEN. ELLIS** asked if that number had increased substantially, and **Mr. Miller** said he was not aware of a significant increase in trusts being formed, but there has been excellent utilization of that credit vehicle among individuals and corporations.

**Closing by Sponsor:**

**REP. DAVIES** closed by saying that this is a taxpayer friendly bill for the most part, but more than that, it is a fairness issue. He urged support.

**HEARING ON HB 658**

**Sponsor:** REPRESENTATIVE EDITH CLARK, HD 88, SWEETGRASS

**Proponents:** Sen. Glenn Roush, SD 43, Cut Bank  
Carl Weniger, Montana Oil and Gas Association  
Curt Dahlgaard, Somont Oil Company  
Gail Abercrombie, Montana Petroleum Association  
Gary Feland, J&G Operating  
R. D. Phillips, Potlatch Oil and Refining Company  
and Dry Coulee Oil and Gas Company  
Patrick Montalban, Northern Montana Oil & Gas  
Association

**Opponents:** None

**Informational Testimony:** Don Hoffman, Department of Revenue

**Opening Statement by Sponsor:**

**REP. EDITH CLARK, HD 88, Sweetgrass,** said that **HB 658** is the little stripper well bill, and it really is about jobs and income. She said most of the oil fields in her country are old and the production is low. These small stripper wells that produce one-half to three barrels of oil a day are what most of

these wells are. With the current price of oil, it is uneconomical to keep these wells going. She said to encourage the producers to keep these wells operating, this bill requests that the local government severance tax be reduced from 5.8% to .8% while the West Texas Intermediate price is below \$16 a barrel, but would reinstate to 5.8% when the price goes above \$16 a barrel. She provided a packet of information to the committee, **EXHIBIT (tas77a03)**.

**Proponents' Testimony:**

**SEN. GLENN ROUSH, SD 43, Cut Bank**, said **HB 658** is the life blood of northern Montana. It only deals with oil production taxes. He said item No. 21 of Section 1 of the bill defines "stripper exemption," and item No. 24 defines "stripper well exemption." He said the third page from the back of the handout provided by **REP. CLARK** is a five-year summary from the Montana oil and gas reports. That shows the number of producing oil wells in 1997 in northern Montana was 1,970 wells and many of these wells are three barrels or less a day. He urged support for this bill.

**Carl Weniger, President, Montana Oil and Gas Association**, said his organization supports **HB 658**. He said they believe this is a jobs-related issue.

**Curt Dahlgaard, Vice-President, Somont Oil Company**, said his company operates about 300 stripper wells, with an average production of three-quarters of a barrel a day, at about 200 barrels a day. He said they have 6.5 employees. He said this tax relief would be essential to keeping their business viable until oil prices come back. He urged support.

**Gail Abercrombie, Montana Petroleum Association**, said there are three bills in this legislature regarding oil and gas production, **SB 530**, which they are calling the go-forward bill; **HB 661** addresses the deeper strippers; and **HB 658** is directed to those that pump three barrels or less a day. She said all of them put together are good tax policy for Montana. **Ms. Abercrombie** recommended striking the cap. She said that would eliminate kicking the tax in and out according to the price cap, especially where it is directed only to wells that produce three barrels a day or less.

**Gary Feland, J&G Operating**, said that their operating costs are between \$12 to \$16 a barrel, and that is just lifting costs, it does not service any debt. He said he agreed with **Ms. Abercrombie** on eliminating the trigger.

**R. D. McPhillips, Potlatch Oil and Refining Company, and Dry Coulee Oil and Gas Company,** said that presently they have four leases shut down. He said they don't repair anything because they can't afford to. If they are down, they stay down until the price of oil comes up. He said that is not wise business practice, because it costs less to continue operation of the wells than it does to start them up. He said this bill will help keep those wells producing.

**Patrick Montalban, Northern Montana Oil and Gas Association,** said they support **HB 658**. He said this bill is important to jobs in northern Montana. He referred to Exhibit 3 which contained a copy of the bill, the Fiscal Note, and documentation showing the price of oil in northern Montana. He pointed out that in 1997 there were 1,971 wells, down from 2,029 in 1996. He said that this bill started at the local level, and the counties support **HB 658**.

**Mr. Montalban** said there are two different tax rates for stripper wells. Zero to ten barrels a day are qualified as stripper wells in the state of Montana; zero to three are taxed at 5.8%, and four to ten are at 10.8%. He said the Fiscal Note was created by the Department of Revenue using 1996 figures, which are outdated. He said since 1996 the number of wells in the Cut Bank Field has dropped from 516 wells to 381 wells as of August 1998; Pondera County has dropped from 253 wells to 226; and finally, in **REP. CLARK'S** district, it has dropped from 887 wells to 477 wells. He urged support of **HB 658**.

**Opponents' Testimony:** None

**Informational Testimony:**

**Don Hoffman, Department of Revenue,** urged the committee to make sure that **HB 661** and **HB 658** coordinate, and also make sure that they coordinate with **SB 530**.

**Questions from Committee Members and Responses:** None

**Closing by Sponsor:**

**REP. CLARK** said that the Montana Association of Counties does support **HB 658**. She said that this will allow these little stripper wells to continue producing and keep their employees working.

**CHAIRMAN DEVLIN** appointed a subcommittee to study these oil and gas bills. **SEN. ELLIS** will chair the subcommittee, with **SEN. DEPRATU** and **SEN. STANG**.

**HEARING ON HB 253**

**Sponsor:** **REPRESENTATIVE RICK JORE, HD 73, RONAN**

**Proponents:** **Kristen Juras, Montana State Bar Tax Section**  
**Tom Harrison, Montana Society of CPAs**  
**David Dennis, D. A. Davidson**  
**Sen. Barry "Spook" Stang, SD 36, St. Regis**

**Opponents:** **None**

**Opening Statement by Sponsor:**

**REP. RICK JORE, HD 73, Ronan**, said **HB 253** eliminates the inheritance tax in Montana, which would leave \$10.5 million in the private sector. He distributed an article from Money Magazine of May 1997 entitled "Don't Die in Montana," **EXHIBIT (tas77a04)**. He said he is philosophically opposed to an inheritance tax. It is contrary to everything this country is all about. He said he does not believe that the fruit of one's labors for their life, which are taxed along the way, should be taxed again simply because it is transferred to somebody else.

**Proponents' Testimony:**

**Kristen Juras, Attorney, Great Falls, and Montana State Bar Tax Section**, said that she has been practicing for 17 years primarily in the tax planning area. She said there are two types of taxes imposed on death: 1) an inheritance tax, and 2) an estate tax. This bill provides for the elimination of the inheritance tax. There will still be an estate tax.

**Ms. Juras** said the difference between these two taxes is that the inheritance tax is imposed on anyone who is not a spouse or a lineal descendent. The estate tax is only imposed on wealthier people, kicking in at \$650,000. It is not imposed on spouses. She said she believes that the inheritance tax is unfair and should be eliminated.

**Tom Harrison, Montana Society of CPAs**, said the inheritance tax is a highly discriminatory tax. It applies only to people without lineal descendants. He said it should be eliminated.



**David Dennis, General Counsel, D. A. Davidson & Company**, said he concurred in all the comments made by the other proponents. He said there are costs involved even to those who are not subject to the inheritance tax, and he urged elimination.

**SEN. BARRY "SPOOK" STANG, SD 36, St. Regis**, said the inheritance tax is the most heinous tax in Montana. It is a tax on things that have already been taxed, and it should be eliminated.

**Opponents' Testimony: None**

**Questions from Committee Members and Responses:**

**SEN. ELLINGSON** asked about the example by **Ms. Juras** of the 80% in taxes on the \$1 million estate, and **Ms. Juras** said that that did include some income taxes. **SEN. ELLINGSON** asked about the \$650,000 exemption, and **Ms. Juras** said that there is that exemption, but only on the federal level. In Montana, those people have to start paying on the first dollar. **SEN. ELLINGSON** asked, then, if the 80% rate was on the full \$1 million, and **Ms. Juras** said that it was a 32% rate on everything over \$100,000.

**SEN. ELLINGSON** asked **REP. JORE** about his belief of equality of opportunity and whether someone who inherits \$1 million or \$500,000 has the same opportunity as someone who gets nothing. **REP. JORE** said he believes in equality before God and before the law, as stated in the Declaration of Independence, and he said we are not equal in incentives, or talent, and it is just that a person can do what they want with the fruits of their labors.

**SEN. ELLINGSON** asked, then, if **REP. JORE** believed it was important social policy that each person should not start out on an equal basis from the time they are born, but should start out with whatever benefits their prior generations have given them. **REP. JORE** said that was correct. **SEN. ELLINGSON** then asked if underlying this bill is the notion that it is socially beneficial to create a financial aristocracy based on inherited wealth, and **REP. JORE** said that he did not believe in the assumption that that would automatically create a financial aristocracy.

**SEN. ELLIS** said that his aunt had left some money to his wife, and he asked **Ms. Juras** what the initial tax rate would be and how fast it goes up to what level. **Ms. Juras** said that a gift to a niece-in-law is taxed at 8% from \$1 to \$25,000, 16% from \$25,000 to \$50,000, 24% from \$50,000 to \$100,000, and 32% after that. She said if that had been left to a nephew, it would have been half of each of those percentages.

**SEN. ECK** said that lineal descendants had been taken care of, so a situation as proposed by **SEN. ELLINGSON** would not occur. However, an example of those who would pay the very highest rate are same-sex couples, and this bill would be an advantage for that group. **REP. JORE** said that if this bill passed, it would not matter what the relationship was, there would be no inheritance tax. **SEN. ECK** asked about the concept that anyone who is a lineal descendant of a grandparent would be exempt and whether that idea had been discussed in this concept. **REP. JORE** said he did not know the details of that, but his concern is that if some people are exempt from the inheritance tax, that acknowledges it is an inappropriate tax, and if it is inappropriate for them, it should be eliminated altogether.

**SEN. ELLIS** explained that his bill dealt with closely held family businesses, and only with lineal descendants of someone's grandparents, so a person had to be related in order to be exempt. **SEN. ECK** asked if this was the one that sunsets, and **SEN. GLASER** said that was the one that dealt with children who were over 18 when a couple married.

**Closing by Sponsor:**

**REP. JORE** said he would like to have a discussion with **SEN. ELLINGSON** on the philosophies of this issue. He said he believes that the fruits of the labor of the individual belong to him, and the purpose of government, as expressed in the Declaration of Independence, is to secure these inalienable rights. That is the purpose of government, to secure the inalienable rights, and not to assume ownership of me and my property and my productivity to arbitrarily distribute in a political fashion to politically favored groups. He said that is why he opposes and disagrees with the inheritance tax.

**CHAIRMAN DEVLIN** asked who would carry this bill on the floor if it should pass this committee, and **REP. JORE** asked **SEN. STANG** to carry it.

**HEARING ON HB 659**

**Sponsor:** REPRESENTATIVE WILLIAM "RED" MENAHAN, HD 57, ANACONDA

**Proponents:** Patricia Cook, Montana County Treasurers Association

**Opponents:** None

**Opening Statement by Sponsor:**

**REP. WILLIAM "RED" MENAHAN, HD 57, Anaconda,** said **HB 659** is a simple bill for the county treasurers that deals with remitting monies under \$5. Under this bill, they will not pay less than \$5, and they won't bill for less than \$5.

**Proponents' Testimony:**

**Patricia Cook, Lake County Treasurer, Montana County Treasurers Association,** said that county treasurers often see corrections to tax bills, an addition, a deletion, or a refund, authorized by the Department of Revenue, in the amount of \$5 or less. It is not cost effective to process this. **HB 659** would simplify the treasurers' work and save the expense of processing these.

**Opponents' Testimony: None****Questions from Committee Members and Responses:**

**SEN. ELLINGSON** asked if this passes and the taxpayers find out about it, whether they would start writing their property tax checks for \$5 less than what they owe, and **REP. MENAHAN** said he did not think that would be a problem. He said this really just involves revisions.

**SEN. ECK** asked if there were instances where the whole tax on a property was less than \$5, and **Ms. Cook** said that this bill only affects revisions, not initial tax bills.

**Closing by Sponsor:**

**REP. MENAHAN** had no closing statement.

**EXECUTIVE ACTION ON HB 659**

**Motion/Vote:** **SEN. ELLIS** MOVED THAT **HB 659** BE CONCURRED IN.  
**Motion carried 9-0.** **SEN. BOHLINGER** will carry on the floor.

**EXECUTIVE ACTION ON HB 657**

**Motion:** **SEN. GLASER** MOVED THAT **HB 657** BE CONCURRED IN.

**Discussion:**

**SEN. STANG** said he originally intended to vote against this bill, but after **Mr. Miller** said it does comply with the court ruling,

he believes that it should be consistent and he will vote for the bill.

**SEN. ELLIS** said it is only fair that people who are recipients of trust income should be treated the same as all taxpayers, and this bill does that.

**Mr. Miller** explained to the committee that the Department took a very narrow view of what was deductible for that tax case, and the court sustained the Department. However, the Department could recognize the equity in the arguments, so when the CPAs brought forward this bill, the Department did not object. It is a fairness issue.

**SEN. STANG** said in that case he does not like the bill and would vote against it.

**Vote:** MOTION carried 8-1 with Stang voting no. **SEN. ELLIS** will carry the bill on the floor.

#### EXECUTIVE ACTION ON HB 651

**CHAIRMAN DEVLIN** said there were some amendments to this bill placed before each committee member this morning, and **Mr. Heiman** has looked these over. **Mr. Heiman** said he had checked the mechanics of the amendments, but he had not had a chance to look at the IRS Code section. **Mr. Miller** said the Department had sat down with the CPAs and the sponsor, and everyone agreed that these amendments make very clear how the Montana net operating loss will be calculated. He said the first amendment simply amends the title, the second amendment amends the reference as to which version of the Internal Revenue Code, the 1986 version, and the third amendment ties up the definitions contained in the Internal Revenue Code on that operating loss. Modifications will have to be made to make those work in the Montana environment, but this language allows the Department to do that.

**Motion/Vote:** **SEN. ELLIS MOVED THE DEPARTMENT OF REVENUE AMENDMENTS, EXHIBIT (tas77a05).** Motion carried 9-0.

**Motion/Vote:** **SEN. ELLIS MOVED THAT HB 651 BE CONCURRED IN AS AMENDED.** Motion carried 9-0.

#### EXECUTIVE ACTION ON HB 669

**CHAIRMAN DEVLIN** reminded the committee that this is the bill that has to do with railroad taxation.

**Motion:** **SEN. GLASER MOVED THAT HB 669 BE CONCURRED IN.**

**Discussion:**

**SEN. BOHLINGER** said he supports this legislation. This proposes a formula that will bring about predictability, which is important from a taxpayer's perspective, as well as from the state perspective and local governments' perspective. He said he feels the formula is fair and workable and understandable.

**SEN. DEPRATU** said this will also help level out some of the spikes, and make the revenue more of a wave. He said it helps both the railroads and the local governments.

**SEN. STANG** said he had a proposed amendment from the Department of Revenue. He said this amendment deals with the definition of the market value and how it is determined.

**Gene Walborn, Department of Revenue**, provided copies of the amendment proposed by the Department, **EXHIBIT (tas77a06)**. He explained that the first, second and fourth amendments clarify that the proposed formula used to value railroad transportation property may be an exception to the market value standard. The third amendment provides a definition of operating revenue which the Department shall use in the proposed formula to value railroad transportation property.

**Stan Kaleczyc, Burlington Northern/Santa Fe**, said that with respect to the market value definition, this first appeared under the technical notes on the Fiscal Note in the House. He said there are two ways to address this issue: 1) by the language in the bill which references 15-8-111, and 2) to amend 15-8-111. He said both ways achieve the same end, and the railroad has no preference of one way over the other.

**Mr. Kaleczyc** said in regard to the amendment regarding operating revenue, there is no disagreement on that definition. This is taken directly out of the federal regulatory provisions for operating revenue. It could be handled through an administrative rule, and it is not necessary to put it into statute. He said from the railroad's perspective, these amendments are not harmful to the bill but don't necessarily improve the bill, either. If the amendments are put on the bill at this point, it would require it to go back to the House for further consideration.

**SEN. STANG** asked what the vote was in the House on **HB 669**, and **Mr. Kaleczyc** said on second reading it was 98/2, and on third reading 96/4.

**SEN. STANG** said that if this had been a close bill, he would be reluctant to put the amendment on and send it back to the House;

however, he said this amendment does clarify the bill, and it might well be worth the effort to put the amendment on and return it to the House.

**Motion:** SEN. STANG MOVED PROPOSED AMENDMENT OF DEPARTMENT OF REVENUE.

**Discussion:**

**CHAIRMAN DEVLIN** asked the Department, if these amendments were not put on in this committee, whether they would take them to the Governor for a Governor's amendatory veto. **Mr. Walborn** said he had not talked to the Director about that. **CHAIRMAN DEVLIN** said he was wondering how strongly the Department felt about the amendments. **Mr. Walborn** said the Department thinks it helps provide clarity.

**SEN. GLASER** asked, aside from clarity, what the amendments do to the bill legally. **Larry Allen, Department of Revenue**, said these amendments are substantive. The definition of market value would say this formula is market value, and the Department is not comfortable with that. They would rather amend 15-8-111 and say, "We don't know if this is market value or not, but whatever it is, it is okay. It is a legislative mandate." If not changed, other companies could come back and say there is a new way of determining market value, and suddenly there is the contention of how to determine market value for every other property that is centrally assessed.

**SEN. DEPRATU** said he would resist the amendments. If this is substantive, it should have been amended before it got to the Senate Taxation Committee.

**SEN. STANG** said he felt that if it needs to be done, it should be done correctly, through the amendments. He said this is a good solution to the problem.

**Vote:** Motion carried 5-4 with Devlin, Ekegren, Glaser and Depratu voting no. (Roll Call Vote #1)

**Motion:** SEN. STANG MOVED THAT HB 669 BE CONCURRED IN AS AMENDED.

**Discussion:**

**SEN. ECK** asked if technical notes 5 and 6 had been addressed.

**SEN. STANG** said there was testimony that those had been resolved.

**SEN. ECK** said the bill still says it is effective on passage and approval, and the Department had said this would cause some

problems; however, they did not submit an amendment regarding that issue.

**SEN. ECK** asked about the definition of "base value." She said the Department has proposed a concept of using a settlement value as a basis for future assessments, and if the settlement value is used, it would be static. In other words, the base value would not increase. She said she also had concern about the long-term impacts on local governments.

**SEN. STANG** said that the Department had told him that the amendment takes care of the problem with the base value, but does not necessarily take care of the settlement issue. He said this is a consensus between the Department and the railroads, and it is policy that the state can afford and live with. He said he believes it will save a lot of litigation in the future.

**SEN. ECK** said the other issue that has not been considered is the cumulative tax benefits that railroads and others are deriving from this session by way of **SB 200** and utility adjustments because of the 4R Act. She said she favors this bill, but in the long-term, the legislature needs to recognize the benefits that are being passed out and the impacts of those.

**SEN. ELLIS** said the railroads deserve the fairness of the 4Rs Act, and because they have to go through Montana, we should not abuse this by unwarrantedly high taxes. He said he is in favor of moving the bill on.

**Vote:** Motion carried 9-0. **SEN. DEPRATU** will carry.

#### **EXECUTIVE ACTION ON HB 638**

**Motion:** **SEN. STANG** MOVED THAT HB 638 BE CONCURRED IN.

#### **Discussion:**

**SEN. DEPRATU** said this is a solid bill and is aimed at creating more jobs and directing it towards Montana development. He said he favors passage.

**CHAIRMAN DEVLIN** said he had a memo from **Mary Bryson, Department of Revenue**, in regard to what other benefits these companies might qualify for and whether they would overlap,  
**EXHIBIT (tas77a07)**.

**SEN. STANG** said he liked the fact that all the research has to be done in Montana, and that it is only the direct costs that go into the research that qualify. He said if we can encourage

those kinds of jobs in Montana, those are the jobs we are looking for. Those are better paying jobs. It is a good idea.

**SEN. ELLIS** said companies doing research should be encouraged.

**SEN. ECK** said this also encourages smaller companies to do research, which not only provides jobs, it also makes companies more viable.

**Vote: Motion carried 9-0. SEN. DEPRATU** will carry.



**ADJOURNMENT**

Adjournment: 10:30 A.M.

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SEN. GERRY DEVLIN, Chairman

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SANDY BARNES, Secretary

GD/SB

**EXHIBIT (tas77aad)**